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SUPREME COURT, U.S.

# Supreme Court of the United States

(OCTOBER TERM, 1951)

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No. 744

YOUNGSTOWN SHEET AND TUBE CO. ET AL.,  
Petitioners,

VERSUS

CHARLES SAWYER, Secretary of Commerce,  
Respondent.

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No. 745

CHARLES S. SAWYER, Secretary of Commerce,  
Petitioner,

VERSUS

YOUNGSTOWN SHEET AND TUBE CO. ET AL.,  
Respondents.

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**MOTION FOR LEAVE TO FILE A BRIEF AMICUS  
CURIAE AND BRIEF AMICUS CURIAE ON BE-  
HALF OF AMERICAN LEGION POST NO. 88,  
PLEDGER-ALLEN, NORMAN, OKLAHOMA**

PAUL W. UPDEGRAFF,

Counsel for American Legion Post No. 88,  
Pledger-Allen, Norman, Oklahoma.

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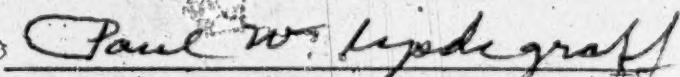
**MOTION FOR LEAVE TO FILE BRIEF  
AS AMICUS CURIAE**

To the Honorable, the Chief Justice and the Associate  
Justices of the Supreme Court of the United States:

Comes now American Legion Post 88, Pledger-Allen,  
Norman, Oklahoma, and respectfully moves this Court  
pursuant to Rule 27, paragraph 9, of the Rules of this

Court, for leave to file the accompanying brief in this case *amicus curiae*. The consent of the attorney for the petitioners, was requested but has not been received. The interest of American Legion Post No. 88, Pledger-Allen, Norman, Oklahoma, is that the issue is a great public question. It is especially important at the present time, because the future of the nation and even its survival may depend upon the decision reached by the Court in this case.

Respectfully submitted,



Counsel for American Legion Post No. 88,  
Pledger-Allen, Norman, Oklahoma.

May 4, 1952.

### BRIEF AMICUS CURIAE

We shall raise in this brief only the following point:

**The President of the United States as Commander in Chief of the Army and Navy has the implied power to seize the steel mills during the time of war.**

This Court will take judicial knowledge of the fact that the United States is engaged in "a shooting war" in Korea. *United States v. Switchmen's Union of N. America*, 97 Fed. Supp. 97.

The United States as a signatory of the United Nations is engaged in a war which needs no formal declaration of war by the Congress of the United States. The treaty of the United Nations has the effect of law, Art. VI, Sec. 2, Constitution. As Commander in Chief of the Army and Navy the President ordered our troops to resist the invasion of South Korea by the Northern Koreans and the Chinese Reds. Since June, 1950, the United States has been engaged in a war in Korea "in fact."

As Commander in Chief the President has the obligation and duty to his men on the field of battle to see that they have an uninterrupted flow of steel with which to wage war. To do less would constitute desertion of his forces on the field of battle in the face of the enemy.

Time of crisis changes the authority of the President. He has no authority to proclaim a crisis if in fact crisis does not exist; however, this Court will take judicial knowledge, as in the past, of depressions, stock market crashes, wars, and "emergencies."

The argument is not valid that the present crisis was caused by the failure of the President to invoke the Taft-Hartley Act. The courts will not substitute their judgment in carrying out the laws by the executive branch and must be governed by the acts and decisions of the political department of the government.

### **CONCLUSION**

The President has the implied power to keep the steel mills open. To do this he ordered them seized. Because of the "crisis" the order is valid. We urge on behalf of the men in Korea and those about to be sent to Korea and on behalf of the millions of men who fought and suffered and died there that the authority of the Commander in Chief be sustained for the reasons set forth herein.

Respectfully submitted,

AMERICAN LEGION Post No. 88,  
NORMAN, OKLAHOMA,

PAUL W. UPDEGRAFF.